

# TRANSCRIPT OF PROCEEDINGS

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

**DOCKET FILE COPY ORIGINAL**

In the Matter of:

William F. Crowell

WT Docket No. 08-20

DATE OF HEARING: April 2, 2008 VOLUME: 1

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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

+ + + + +

PRE-HEARING CONFERENCE

IN THE MATTER OF:

WT Docket No. 08-20

WILLIAM F. CROWELL,

FCC File No.  
0002928684

Application to Renew  
License for Amateur Radio  
Service Station W6WBJ

Wednesday,  
April 2, 2008

Federal Communications Commission  
Room TW A-363  
445 12th Street, S.W.  
Washington, D.C.

The above-entitled matter came on for  
pre-trial conference, pursuant to notice, at  
9:30 a.m.

BEFORE:

ARTHUR I. STEINBERG,  
Administrative Law Judge

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## APPEARANCES:

On Behalf of the Applicant:

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On Behalf of the Agency:

REBECCA A. HIRSELJ, ESQ.  
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Investigations & Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
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P R O C E E D I N G S

9:34 A.M.

JUDGE STEINBERG: This is a pre-hearing conference, and if you can't hear me, you just let me know and I -- my voice is kind of -- can kind of get loud and shrill and if I'm talking too loudly let me know. If I'm talking too softly, let me know.

This is a pre-hearing conference in WT Docket Number 08-20 which was set for hearing by Hearing Designation Order DA08-361, released February 12, 2008.

The issues specified seek to determine whether Mr. Crowell intentionally interfered with and/or otherwise interrupted radio communications, whether Mr. Crowell transmitted one-way communications or amateur frequencies, and whether Mr. Crowell transmitted indecent language and/or music on such frequencies.

Ultimately, it must be determined whether Mr. Crowell is qualified to be and

1 remain a Commission licensee and whether the  
2 application for renewal of his license should  
3 be granted.

4 By order FCC 08M-08, released  
5 February 15, 2008, this case was assigned to  
6 me and an initial pre-hearing conference was  
7 scheduled for this morning.

8 Let me first take the appearances  
9 for the parties. On behalf of William F.  
10 Crowell?

11 MR. CROWELL: It is I, Your Honor,  
12 William F. Crowell, in the flesh.

13 JUDGE STEINBERG: Crowell. I'm  
14 sorry, I've been mispronouncing.

15 MR. CROWELL: That's all right.

16 JUDGE STEINBERG: Okay, and you're  
17 participating in this conference by  
18 speakerphone, is that correct?

19 MR. CROWELL: Yes, Your Honor.

20 JUDGE STEINBERG: Okay, and on  
21 behalf of the Chief, Enforcement Bureau?

22 MS. HIRSELJ: Rebecca Hirselj.

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1 JUDGE STEINBERG: Let me first  
2 address the pleadings that are currently  
3 pending before me and -- essentially on March  
4 24th, 2008, Mr. Crowell filed a Motion to  
5 Compel the Enforcement Bureau to answer his  
6 first set of interrogatories. Probably about  
7 ten minutes ago, my legal technician came in  
8 with a pleading entitled Enforcement Bureau's  
9 Opposition to William F. Crowell's Motion to  
10 Compel Answers to his First Set of  
11 Interrogatories, which was filed March 28,  
12 2008. Now, I didn't see this until about ten  
13 minutes ago.

14 Is everybody prepared to talk  
15 about this?

16 MS. HIRSELJ: Yes, Your Honor.

17 MR. CROWELL: Yes, Your Honor.

18 JUDGE STEINBERG: Okay, why don't  
19 you start, Mr. Crowell?

20 MR. CROWELL: Okay, Your Honor, I  
21 think that we can avoid confronting this issue  
22 of whether you received the Bureau's response

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1 in a timely fashion because, just  
2 coincidentally, the Bureau said they were  
3 going to respond to my discovery today, the  
4 time limit ran out today, so they're going to  
5 respond today, and I haven't seen what they've  
6 got yet, but may I suggest that maybe a better  
7 way to handle it would be if I see what  
8 they're going to give me and if I still have  
9 problems, I could make a further motion? We  
10 haven't had any discovery yet, but they say  
11 they're going to give me some today.

12 JUDGE STEINBERG: Ms. Hirselj?

13 MS. HIRSELJ: We are certainly  
14 endeavoring to finalize our responses today,  
15 but one of the items that we were hoping to  
16 address with Your Honor was the -- what we  
17 consider to be excessive, unnecessary,  
18 burdensome scope of the interrogatories, many  
19 of which we think are irrelevant to the items  
20 that you previously put on the record as the  
21 issue you stated in the hearing designation  
22 order.

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1                   We are endeavoring to respond to  
2                   the discovery, but to the extent we can limit  
3                   the discovery in any fashion to cover just  
4                   those items that are relevant to the  
5                   designated issues would certainly help us in  
6                   our efforts. To the extent we may not be able  
7                   to respond to all 300 plus interrogatories by  
8                   the close of business today, if we could have  
9                   until the end of the week, we could certainly  
10                  try to do that to the extent that Your Honor  
11                  is not amenable to cutting back the volume of  
12                  the interrogatories as served.

13                   JUDGE STEINBERG:        Okay, I'm  
14                   prepared to rule on this.

15                   Mr. Crowell is entitled to ask  
16                   whatever he wants to ask, and the rules of the  
17                   Commission, unfortunately, unlike the Federal  
18                   Rules, don't set any kind of limit as to the  
19                   number of interrogatories that he can ask,  
20                   whether they be interrogatories or subparts or  
21                   this, that and the other thing. So I'm going  
22                   to rule that the Bureau must respond to each

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1 of the interrogatories by either answering  
2 them or objecting to them.

3 I'm certainly not going to go  
4 through a 25-page pleading or however long it  
5 is, and read every interrogatory and make a  
6 determination as to whether it should be  
7 answered or not. That should be up to the  
8 Bureau to decide whether to answer it or  
9 object to it. And then if Mr. Crowell gets  
10 the answers and objections and he wishes to  
11 file another Motion to Compel or an additional  
12 Motion to Compel, then he may do so.

13 Just to be on the sort of liberal  
14 side, do you think you can answer and object  
15 in a week, by a week from today?

16 MS. HIRSELJ: Yes, Your Honor.

17 JUDGE STEINBERG: Okay, do you  
18 have any objection to that Mr. Crowell?

19 MR. CROWELL: No, that's fine with  
20 me, Your Honor.

21 JUDGE STEINBERG: Okay, so the  
22 Bureau will answer or object to the

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1       interrogatories, your interrogatories by  
2       whatever a week from today is. I guess it's  
3       the 9th. And if the Bureau could -- you've  
4       been mailing your stuff to Mr. Crowell, can  
5       you email them too?

6               MS. HIRSELJ: Yes, Mr. Crowell and  
7       I spoke with Mr. Schonman last week, perhaps  
8       two weeks ago, and we agreed that all  
9       pleadings would be served by mail and email.

10              JUDGE STEINBERG: Okay. And it  
11       goes both ways, please.

12              MR. CROWELL: Oh, yes.

13              JUDGE STEINBERG: And also the  
14       Bureau is right in the building here with me,  
15       so they've been hand-carrying and leaving with  
16       my legal technician or someone else in the  
17       office, copies of what they've been  
18       submitting, but Mr. Crowell, if you could  
19       either fax whatever you file or whatever you  
20       serve on the Bureau to me, either fax it to me  
21       or email to me as you've done with some of the  
22       other pleadings, I'd appreciate it. And

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1 unless that's done, I really can have no  
2 confidence -- unless I personally get it from  
3 either the Bureau or from you by email or by  
4 fax, there really -- I really have no  
5 confidence that I will have everything that  
6 I'm supposed to have because the mail system  
7 here has been screwed up for eight years and  
8 we can't do anything to unscrew it.

9 MR. CROWELL: Yes, Your Honor.

10 JUDGE STEINBERG: So for instance,  
11 I first got the Bureau's opposition this  
12 morning.

13 Okay, so that takes care of the  
14 motion to compel.

15 MS. HIRSELJ: Your Honor, if I  
16 could clarify our answer to you on the 9<sup>th</sup>,  
17 not up to the 9<sup>th</sup> so that we have until the  
18 close of business?

19 JUDGE STEINBERG: Yes, you have  
20 until close of business on the 9th.

21 MS. HIRSELJ: Thank you, Your  
22 Honor.

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1 JUDGE STEINBERG: The next thing  
2 is Mr. Crowell filed on March 24th a request  
3 for judicial notice, and by my calculations a  
4 response is due today if anything is going to  
5 be filed.

6 MS. HIRSELJ: I calculated our  
7 deadline as tomorrow.

8 JUDGE STEINBERG: Well, four plus  
9 three, did I miss a holiday?

10 MS. HIRSELJ: I think I did ten  
11 plus three as the --

12 JUDGE STEINBERG: There's no ten.

13 MS. HIRSELJ: Okay.

14 JUDGE STEINBERG: You've been  
15 using 1.294?

16 MS. HIRSELJ: I can't remember the  
17 rule number. But I assumed it was ten as  
18 opposed to an interrogatory. That could have  
19 been my mistake.

20 JUDGE STEINBERG: No, we never --  
21 okay, for hearing proceedings we use 1.294.  
22 There's another rule in there concerning

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1 responses to pleadings. I think it's 1.45.

2 MS. HIRSELJ: I think that's what  
3 I referred to.

4 JUDGE STEINBERG: We never use  
5 1.45, ever, ever.

6 MS. HIRSELJ: My mistake, Your  
7 Honor. Thank you.

8 JUDGE STEINBERG: That's okay.  
9 It's 1.294. Because basically everything we  
10 do in a hearing is interlocutory, and unless  
11 there's a rule in the part of the rules that  
12 concerns hearing proceedings, let me start  
13 that again.

14 Let me find the index. Okay,  
15 there's subpart B which runs from Section  
16 1.201 forward and unless there's a rule in  
17 subpart B which gives you a longer or shorter  
18 period of time than 1.294, then we use 1.294.  
19 Okay, and that should put everybody on the  
20 same page.

21 MR. CROWELL: All right.

22 JUDGE STEINBERG: Okay, do you

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1 want a little additional time to respond to  
2 that if you're going to do it?

3 MR. CROWELL: Are you asking me,  
4 Your Honor?

5 JUDGE STEINBERG: No, the Bureau.

6 MS. HIRSELJ: I anticipate we can  
7 probably get something on file by the end of  
8 the day or tomorrow at the latest.

9 JUDGE STEINBERG: Okay. Let me  
10 tell you, generally, something like a request  
11 for official notice, when we set up a hearing  
12 schedule, one of the dates will be for an  
13 exhibit exchange, and usually I say well, I  
14 always say if there's something you want me to  
15 take official notice of you make it an exhibit  
16 and request official notice at the time of the  
17 hearing. So it might be a little premature  
18 for me to be taking official notice of stuff  
19 now.

20 MR. CROWELL: Yes, Your Honor.

21 JUDGE STEINBERG: So I just want  
22 to generally say that about that.

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1 MR. CROWELL: All I was really  
2 asking was that maybe you could read MN&O, if  
3 you don't mind, and I think it's quite  
4 analogous to this case, really.

5 JUDGE STEINBERG: Well, you can  
6 argue that at the appropriate time, which  
7 might be in findings and conclusions after the  
8 hearing.

9 MR. CROWELL: Yes, Your Honor.

10 JUDGE STEINBERG: I did notice,  
11 what was it, a letter -- no, I'm not going to  
12 say anything more.

13 Okay, now let's turn to discovery.  
14 Does the Bureau anticipate any discovery?

15 MS. HIRSELJ: Yes, Your Honor.

16 JUDGE STEINBERG: And what do you  
17 anticipate doing?

18 MS. HIRSELJ: I anticipate we'll  
19 serve written interrogatories, request for  
20 production, request for documents upon Mr.  
21 Crowell and once we receive responses and  
22 response information, I anticipate depositions

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1 will be necessary.

2 JUDGE STEINBERG: Okay, and Mr.  
3 Crowell, you've got the interrogatories, and  
4 I dealt with the request for production of  
5 documents.

6 MR. CROWELL: Yes, I may need to  
7 propound another set of interrogatories,  
8 depending on the Bureau's responses to my  
9 first set.

10 JUDGE STEINBERG: Sure.

11 MR. CROWELL: And I also  
12 anticipate propounding a request for -- I'm  
13 sorry, a request for admissions, basically,  
14 request for admit genuineness -- I'm sorry.  
15 Request for admissions.

16 JUDGE STEINBERG: Okay, I think  
17 the time for that has long gone.

18 MR. CROWELL: Oh.

19 JUDGE STEINBERG: That's 1.245, I  
20 think. I think you got -- maybe it's not.  
21 1.246. Within 20 days after the time for  
22 filing Notice of Appearances expired --

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1 MR. CROWELL: I see. Okay, then I  
2 would say probably, possibly another set of  
3 interrogatories or follow-up interrogatories.  
4 That's about it.

5 JUDGE STEINBERG: Okay, you know  
6 you can calculate the 20 days and when were  
7 the notices of appearances due? Well, it  
8 doesn't matter. You can all calculate that  
9 and if it's too late, it's too late.

10 MR. CROWELL: Okay.

11 JUDGE STEINBERG: Let me tell you  
12 on discovery, forgetting about the first of  
13 interrogatories, which we've already  
14 discussed, but if you have disagreements and  
15 difficulties, I would expect you to call each  
16 other up and try to work them out and resolve  
17 it to the best of your ability, and I expect  
18 the effort to be genuine and not just for the  
19 sake of showing that you made a phone call.

20 Only if you absolutely can't agree  
21 to something or you can't compromise on  
22 something, only in that circumstance do I want

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1       you to come to me for a ruling. Now I already  
2       anticipate there's going to be another Motion  
3       to Compel, so we won't worry about that. But  
4       for anything after the first set of  
5       interrogatories, is that understood?

6               MR. CROWELL: Yes, Your Honor.

7               MS. HIRSELJ: Yes, Your Honor.

8               JUDGE STEINBERG: And let me also  
9       turn to some -- next turn to some other  
10      matters. I've covered the courtesy copy bit.

11              Now, I noticed that on Mr.  
12      Crowell's pleadings in the caption you've got  
13      FCC 08M-08 at the top of everything.

14              MR. CROWELL: Yes.

15              JUDGE STEINBERG: That shouldn't  
16      be there.

17              MR. CROWELL: Okay.

18              JUDGE STEINBERG: That's just a  
19      reference number to the Chief Judge's February  
20      25th order. It doesn't belong in the caption.  
21      So just delete all that. Just delete that  
22      number.

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1                   Now secondly, when you mail --  
2                   you're either going to mail or FedEx stuff or  
3                   overnight it to the FCC, is that correct?

4                   MR. CROWELL: Yes.

5                   JUDGE STEINBERG: Don't put my  
6                   name on the outside envelope at all. That  
7                   only messes things up.

8                   MR. CROWELL: Okay.

9                   JUDGE STEINBERG: The only name,  
10                  if there's a name that -- is the name of the  
11                  Commission's Secretary, and her name is  
12                  Marlene H. Dortch, D-O-R-T-C-H. So  
13                  essentially, anything that you mail to the  
14                  Commission or overnight should have her name  
15                  on it and if you -- you have access, websites,  
16                  right?

17                  MR. CROWELL: Yes, yes.

18                  JUDGE STEINBERG: Go to the FCC's  
19                  website and click on -- there's something for  
20                  the Office of the Secretary and there's a  
21                  little chart someplace in there on how to file  
22                  -- on where to file stuff. Because if you

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1 hand deliver it, it goes to one place. If you  
2 mail it, it goes to another place. And if you  
3 FedEx it, it might go to a third place, I  
4 don't know. But I hesitate to tell you where  
5 to send it because I can't figure it out  
6 myself half the time. But whatever it is, it  
7 doesn't have my name on the envelope.

8 MR. CROWELL: All right.

9 JUDGE STEINBERG: On the outside  
10 envelope or you put your stuff on an envelope  
11 within an envelope, even on the inner  
12 envelope.

13 Now where my name goes, and I know  
14 I said this in one of my orders, and I  
15 unfortunately was told that that screws things  
16 up too. In between the little thing in  
17 between the caption and the title of the  
18 pleading, you put "to Marlene H. Dortch,  
19 Secretary, Federal" -- I'll put this in a --  
20 I'm going to write an order briefly  
21 summarizing what went on today, and if you  
22 like, I'll just put this in the order like I

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1 did the last one.

2 MR. CROWELL: That would be  
3 helpful.

4 JUDGE STEINBERG: It's basically  
5 to Marlene H. Dortch, Secretary, Federal  
6 Communications Commission, attention, Arthur  
7 I. Steinberg, and that goes in between the --  
8 after the end of the caption and before the  
9 title, because if my name is on the envelope,  
10 I'm still getting all original and six copies  
11 and nothing is being distributed to anybody  
12 else.

13 And I know I told you to do it the  
14 way I told you to do it, but they told me that  
15 I was doing it wrong too. And even doing it  
16 this way won't guarantee that it gets done the  
17 right way, so it's been going on for at least  
18 eight years. So I don't think I'm going to  
19 fix it today, but we're going to make an  
20 effort to try to do something about it.

21 MR. CROWELL: Very well, Your  
22 Honor.

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1 JUDGE STEINBERG: Okay, now the  
2 next thing I want to talk about is the dates  
3 and I've got a tentative schedule, which I  
4 don't think is realistic given the discovery  
5 requests that I've heard, and if we did away  
6 with depositions, it was doable, but I don't  
7 think -- so let me redo it in my head with my  
8 calendar. So if you would bear with me a  
9 minute.

10 (Pause.)

11 Okay, I've redone it. These here  
12 are the dates I would suggest. Okay. We'll  
13 set a date for completion of all discovery,  
14 July 3rd, 2008. That gives you three months.

15 MS. HIRSELJ: I think that might  
16 be a little optimistic.

17 JUDGE STEINBERG: Really? Okay.

18 MS. HIRSELJ: Perhaps six months.  
19 Mr. Crowell, do you have any thoughts?

20 JUDGE STEINBERG: Six months?

21 MS. HIRSELJ: To complete written  
22 discovery and --

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1 JUDGE STEINBERG: People can  
2 almost have babies in six months.

3 (Laughter.)

4 MR. CROWELL: No, I wouldn't have  
5 any objection to that procedure, Your Honor.

6 JUDGE STEINBERG: Six months?  
7 That means I'm going to be ruling on discovery  
8 motions for six months?

9 MS. HIRSELJ: I hope not.

10 MR. CROWELL: No, I think it means  
11 that instead, Your Honor, we'd be able to have  
12 plenty of time to resolve the case. I think  
13 that if Ms. Hirselj and I start talking about  
14 the case, maybe we can resolve it some time.

15 JUDGE STEINBERG: Oh, I don't  
16 anticipate that. Usually, I'm pretty  
17 optimistic about that, but I don't think this  
18 is going to be possible. Okay, let me go --  
19 so this is April, four and six is ten. That's  
20 October. I might be retired by then, which in  
21 this case it won't be my problem. Okay, let's  
22 look at October.

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1 MS. HIRSELJ: Maybe we could split  
2 the baby, Your Honor. Four and a half months  
3 instead of -- and maybe try to shoot for the  
4 hearing at the beginning of October, close of  
5 discovery would then be maybe late August?

6 JUDGE STEINBERG: What about Labor  
7 Day?

8 MS. HIRSELJ: Early September.

9 JUDGE STEINBERG: When is Labor  
10 Day?

11 MS. HIRSELJ: That would give us a  
12 month for any motion -- I'm just concerned  
13 that we won't be able to get the written  
14 discovery and depositions because I believe  
15 most of the witnesses are on the West Coast.

16 JUDGE STEINBERG: Maybe I'll go  
17 over and resign.

18 (Laughter.)

19 How does that sound to you, Mr.  
20 Crowell?

21 MR. CROWELL: Fine.

22 JUDGE STEINBERG: August 29th?

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1 MR. CROWELL: Okay.

2 JUDGE STEINBERG: And that's the  
3 Labor Day is early. It is September 1st.  
4 Okay.

5 MS. HIRSELJ: Go and enjoy your  
6 holiday.

7 JUDGE STEINBERG: Oh, I won't  
8 enjoy my holiday.

9 (Laughter.)

10 JUDGE STEINBERG: I'll define what  
11 completion of discovery means in a few  
12 moments. Let's go to -- how about September  
13 15th for exhibit exchange?

14 MR. CROWELL: Okay.

15 JUDGE STEINBERG: That would be  
16 give everybody a little, about three weeks to  
17 prepare exhibits? I'll make it a Monday so  
18 that you can all work the weekend if you have  
19 to, rather than on a Friday. I mean, you  
20 might as well screw up your weekend. Would  
21 you rather make it Friday the 12th and have a  
22 free weekend?

**NEAL R. GROSS**

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